

Message Text

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13

ACTION EUR-25

INFO OCT-01 ISO-00 PM-07 NSC-07 SP-03 SS-20 RSC-01 CIAE-00

DODE-00 INR-10 NSAE-00 PA-04 USIA-15 PRS-01 DRC-01

L-03 /098 W

----- 042705

R 051555Z JUN 74

FM AMEMBASSY MADRID

TO SECSTATE WASHDC 9069

INFO AMEMBASSY LISBON

AMEMBASSY PARIS

C O N F I D E N T I A L MADRID 3474

E.O. 11652: GDS

TAGS: PINT, SP

SUBJ: SURPRISING ACQUITTAL OF CIVILIAN BY
MILITARY COURT-MARTIAL

1. BEGIN SUMMARY: PROMINENT OPPOSITION MONARCHIST JAIME MIRALLES WAS UNEXPECTEDLY ACQUITTED AT MAY 31 COURT-MARTIAL IN WHICH HE WAS TRIED ON PRINCIPAL CHARGE OF HAVING OFFENDED CIVIL GUARD. END SUMMARY

2. COURT-MARTIAL OF LAWYER JAIME MIRALLES WAS HELD IN MADRID MAY 31. ORIGINS COURT-MARTIAL LIE IN SEPTEMBER 1971 MADRID CONSTRUCTION WORKERS STRIKE DURING WHICH A COMMUNIST WORKERS COMMISSIONS MEMBER, PEDRO PATINO, WAS KILLED IN SCUFFLE WITH CIVIL GUARD. LAWYER JAMIME MIRALLES ON OCTOBER 15, 1971 SENT COPIES OF LENGTHY LETTER OUTLINING FACTS IN PATINO DEATH AS HE UNDERSTOOD THEM (WHICH DIFFERED FROM GOVERNMENT VERSION) TO THEN-MINISTERS OF ARMY AND JUSTICE. MIRALLES' LETTER ANGERED GOVERNMENT AND RESULTED LEGAL ACTION AGAINST MIRALLES BY MILITARY PROSECUTOR ACCUSING MIRALLES HAVING PUBLICLY OFFENDED BRANCH OF SPANISH MILITARY AND OF ENGAGING IN ILLEGAL PROPAGANDA.

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3. COURT-MARTIAL LASTED THREE HOURS, WITH MIRALLES ACTING

AS OWN DEFENSE LAWYER AND WITH REPRESENTATIVES SPANISH
LEGAL PROFESSION, AS WELL AS FOREIGN OBSERVERS, PRESENT
FROM INTERNATIONAL COMMISSION OF JURISTS.

4. SURPRISINGLY, PRESIDING MILITARY JUDGES ACQUITTED
MIRALLES AND DETERMINED THAT HIS LETTER HAD NOT OFFENDED
MILITARY NOR ITS HONOR AND THAT MIRALLES HAD MERELY
ACTED AS LAWYER IN DEFENSE OF HIS CLIENT (I.E., PATINO'S
WIDOW). HE WAS ALSO ACQUITTED ON ILLEGAL PROPAGANDA CHARGE.

5. COURT-MARTIAL HAD BEEN SUBJECT OF MOUNTING PROTEST
CAMPAIGN BY BAR ASSOCIATIONS SPAIN AND ABROAD, WHO TOOK
POSITION INTEGRITY LEGAL PROFESSION AND LAWYERS' RIGHT
DEFEND CLIENT WERE AT STAKE. THERE WAS GENERAL EXPECTATION
MIRALLES WOULD BE CONVICTED AND CONDEMNED TO BRIEF
SENTENCE, IF NOT TO MAXIMUM THREE YEAR IMPRISONMENT
WHICH MILITARY PROSECUTOR DEMANDED.

6. COMMENT: THERE APPEAR BE VARIOUS POSSIBLE EXPLANATIONS
FOR SURPRISING DECISION ACQUIT MIRALLES INCLUDING (1) THAT
MILITARY COURTS-MARTIALS USUALLY TRY TO GO BY BOOK IN
PROVIDING MILITARY JUSTICE AND IN THIS CASE IT WAS
CLEAR MILITARY HAD NO REAL CASE AGAINST MIRALLES AND THAT
ACQUITTAL WAS ONLY REASONABLE DECISION; (2) THAT SPANISH
MILITARY HAVE BECOME INCREASINGLY RESENTFUL OF BEING USED
TO TRY CIVILIANS AND OF GROWING ADVERSE PUBLIC REACTIONS
TO COURTS-MARTIALS AND THEIR DECISION MAY PARTIALLY BE
DESIGNED DEMONSTRATE THEIR DISTASTE FOR SUCH INVOLVEMENT;
(3) THAT INCIPENT NATIONAL AND INTERNATIONAL PROTEST
CAMPAIGN MAY HAVE GIVEN PAUSE TO SECOND THOUGHTS RE
POSSIBILITY CONDEMNING MIRALLES; (4) THAT ACQUITTAL MAY
HAVE BEEN IN RESPONSE TO ORDERS FROM HIGHER AUTHORITY;
AND (5) THAT MILITARY MAY HAVE BEEN RELUCTANT TO CONDEMN
MIRALLES BECAUSE LATTER COMES FROM RANKS OF CIVIL WAR
PROVISIONAL OFFICERS AND HIS TWO BROTHERS GAVE THEIR
LIVES FOR NATIONALIST CAUSE IN HEROIC INCIDENT IN WHICH
JAIME MIRALLES WAS SOLE FAMILY SURVIVOR.

7. ACQUITTAL STILL MUST BE CONFIRMED BY RECENTLY NAMED
CAPTAIN GENERAL OF MADRID, ALTHOUGH IT SHOULD BE NOTED
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THAT NEW MADRID CAPTAIN GENERAL CAMPANO LOPEZ IS HIGHEST
RANKING OFFICER WHO COMES FROM RANKS OF ALFERECES
PROVISIONALES OR PROVISIONAL OFFICERS OF CIVIL WAR,
SAME GROUP TO WHICH MIRALLES BELONGS.
AXELROD

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PROPAGANDA, COURTS MARTIAL, ATTORNEYS
Control Number: n/a
Copy: SINGLE
Draft Date: 05 JUN 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: cunninfx
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974MADRID03474
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740144-0070
From: MADRID
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740673/aaaacife.tel
Line Count: 112
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: cunninfx
Review Comment: n/a
Review Content Flags:
Review Date: 29 APR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <29 APR 2002 by cunninfx>; APPROVED <20 FEB 2003 by cunninfx>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SURPRISING ACQUITTAL OF CIVILIAN BY MILITARY COURT-MARTIAL
TAGS: PINT, SP, (MIRALLES, JAIME)
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005